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10/792,044

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John J. Kochevar

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EXAMINER

JOYNER, KEVIN

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/792,044	<b>Applicant(s)</b> KOCHEVAR, JOHN J.	
	<b>Examiner</b> KEVIN C. JOYNER	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-18 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) 7, 15 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 14, 16-18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 9, 2008 has been entered.

### ***Election/Restrictions***

2. Applicant's election without traverse of Group I and Species I, corresponding to claims 1-6, 8-14 and 16-18 in the reply filed on July 5, 2007 is acknowledged.

3. Claims 7, 15, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2007. Subsequently, Applicant has canceled claims 19 and 20, while claims 7 and 15 still stand withdrawn.

4. Newly submitted claim 25 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claim 25 is directed to the non-elected species I corresponding to claims 7 and 15, which embodies a seat valve as the inlet valve. As such, claim 25 is non-elected as well.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 25 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5, 8, 11 and 21 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Crain et al. (U.S. Publication No. 2003/0085239).

It is noted that the Applicant has invoked 35 U.S.C 112 6<sup>th</sup> paragraph concerning the means for connecting said outlet and the “means for” selectively dispensing said fluid. An outlet stem and a valve respectively, are the structural components that will be incorporated into the claims in light of the Applicant’s specification with respect to the “means for” functional limitations. As such, the claims will be examined accordingly.

Concerning claims 1-3, 5, 8, 11 and 21, Crain discloses a vacuum line sanitization system, comprising:

a vacuum line (paragraph 33; numeral 66)

a fluid supply line (65);

a sanitization device disposed (60) between said vacuum line and said fluid supply line (Figure 9), said sanitization device having:

a canister body (11) with a first end and an opposing second end forming a fluid chamber configured to receive a supply of chemicals suitable for sanitizing the vacuum line;

a perforated sleeve (12) disposed in said fluid chamber in communication with said fluid chamber, said perforated sleeve having a supply of chemicals suitable for sanitizing the vacuum line (paragraph 32);

an inlet attached to a fluid supply line and located on said canister body for disposing a fluid inside said fluid chamber;

an outlet comprising a means (85 & 86) for connecting said outlet to the vacuum line located on said canister body and interconnecting said fluid chamber and said vacuum line for disposing a fluid inside said fluid chamber and an outlet on said canister body interconnecting said fluid chamber line (Figure 9);

a supply of chemicals disposed in said perforated sleeve, said supply of chemicals selected so as to form a sanitizing mixture when combined with said fluid (paragraph 32);

an inlet valve (72 & 73) at said inlet, said inlet valve having a sealable opening (paragraph 36) configured to prevent flow of said fluid from said fluid chamber out of said canister body through said fluid inlet; and

a closeable (concerning claim 8) outlet valve and stem (Figure 9; 82 & 86) at said outlet, said outlet stem sized and configured to connect said outlet to an end of the vacuum line (Figure 9), and said outlet valve configured to be closed to allow said fluid to mix with said supply of chemicals so as to form said sanitizing mixture and be opened to allow said sanitizing mixture to flow through and sanitize said vacuum (See paragraphs 22-36 and Figures 1-9).

It is noted that the Applicant's attention is drawn to The Manual of Patent Examining Procedures that specifically states, "while the features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function" as well as, "a claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim." (MPEP 2114 [R-1]). As such, the valves of Crain are fully capable of being opened and closed at various times during the sanitization procedure to prevent and allow fluid to flow there through by sealing said openings in the pipes shut.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crain et al. (U.S. Publication No. 2003/0085239) in view of Dooley, Jr. et al. (U.S. Patent No. 7,081,232).

Crain is relied upon as set forth above. Crain does not appear to disclose that said inlet is at said first end of said canister body, and said outlet is at said second end of said canister body. However, such is extremely well known and nothing more than a mere matter of engineering choice. One such example of this is provided by Dooley Jr. which discloses vacuum line sanitization device that is capable of sanitizing a vacuum line comprising:

A canister body (The housing 10 and closed bottom 51 make up a canister body.) having a first end and an opposing second end, said canister body forming a fluid chamber therein, said fluid chamber configured to receive a supply of chemicals suitable for sanitizing the vacuum line as disclosed in the abstract;

An inlet (23) at the first end on said canister body in communication with said fluid chamber that is capable of disposing a fluid inside said fluid chamber, said fluid selected so as to form a sanitizing mixture when combined with said supply of chemicals as disclosed in column 6, lines 33-40;

An inlet valve at said inlet, said inlet valve configured to connect to a fluid supply line and receive said fluid therefrom, said inlet valve further configured to prevent flow of said fluid from said fluid chamber out of said canister body through said fluid inlet as disclosed in column 6, lines 36-40;

An outlet (7) at a second end of said canister body in communication with said fluid chamber, said outlet having an outlet stem (11), said outlet stem sized and configured to connect said outlet to an end of the vacuum line (concerning claim 5), as disclosed in column 6, lines 25-32. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to place said inlet at said first end of said canister body, and said outlet at said second end of said canister body as such is extremely well known and nothing more than a mere matter of engineering choice as exemplified by Dooley Jr.

9. Claims 6, 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain et al. (U.S. Publication No. 2003/0085239) in view of Fitton (U.S. Patent No. 6,106,771).

Crain is relied upon as set forth in reference to claim 1 above. Crain discloses a valve as the means for sealing. However, Crain does not appear to disclose that the inlet valve is a quick release valve. It is generally known in the art to provide water line inlet valves with a quick release in order to disconnect the line quickly. Fitton discloses a system for sanitizing water lines that includes a housing with a routing valve that is of the quick release type as disclosed in column 3, lines 16-20. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Crain by providing a quick release at the inlet in order to allow quick disconnection of the line as exemplified by Fitton.



10. Claims 9, 16, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain et al. (U.S. Publication No. 2003/0085239) in view of Mercer (U.S. Patent No. 4,841,578).

Crain is relied upon as set forth above. Although Crain discloses that the chemical is in solid form (paragraph 32), Crain does not appear to disclose that the supply of chemicals is a solid chemical cartridge. However, such a cartridge is extremely well known in the art of dispensing chemicals. Mercer discloses a sanitization system comprising a canister (10) with a fluid chamber therein, which is connected to an inlet (34) and an outlet (58). The reference continues to disclose that said canister is supplied with a chemical that is in a solid cartridge (column 1, lines 65-68; column 3, lines 45-58), as such is extremely well known and commonly utilized in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the solid chemical cartridge of Mercer in the system of Crain, as such is extremely well known and commonly utilized in the art of dispensing. The limitations of claim 17 are met with respect to claim 7; therefore, the explanation is relied upon as necessary.

11. Claims 10, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain et al. (U.S. Publication No. 2003/0085239) in view of Rauchwerger (U.S. Patent No. 5,743,287).

Crain is relied upon as set forth in reference to claim 1 above. Crain does not appear to disclose that the device further comprises an indicator configured to indicate

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when said supply of chemicals must be replaced. Rauchwerger discloses a sanitization system comprising a dispensing device with a canister having a fluid chamber formed therein for holding a solid chemical and supplying said chemical to a fluid supply (column 2, lines 35-68; Figure 1) The reference continues to disclose an indicator located on the canister in order to alert an operator that the fluid has been exhausted. column 2, lines 5 and 6. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Crain to include an indicator as exemplified by Rauchwerger in order to alert an operator when the sanitizing fluid has been exhausted.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-11, 14-18 and 21-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCJ

/Sean E Conley/  
Primary Examiner, Art Unit 1797